IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

Bail Appl..No. 7719 of 2007()

CRIME NO.611/2007 OF TANUR POLICE STATION

: PETITIONERS/ACCUSED 2 & 3

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1. JAFFAR, S/O.ABDURAHIMAN,
   CHERUVALAPPIL HOUSE, CHEERANKADAPPURAM,
   TANUR PO., MALAPPURAM DISTRICT.

2. ASKAR, S/O.KUNHAVA,
   MALIYEKKALAKATH, TANUR TOWN,
   TANUR P.O., MALAPPURAM DISTRICT.

BY ADV. SRI.K.P.MUJEEB

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
   TANUR POLICE STATION.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7719 of 2007

Dated this the 14th day of December 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 2 and 3. Altogether there are four accused persons. The first accused is allegedly a goonda/rowdi of the locality. He allegedly had prior animosity against the de facto complainant. Because of such animosity, on 16/11/2007 when the de facto complainant was proceeding on a two wheeler, the accused persons in a Maruti car had allegedly chased him. He was deliberately knocked down. When he fell, they attempted to assault him with broken bottle, weapons etc. He took to his heels. He was chased. He ultimately took refuge in a house. Crime has been registered. All the petitioners are named in the F.I.R. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are innocent. It is only a sheer accident. Allegations of culpability and intentional assault are being raised without any bona fides. The petitioners may, in these circumstances, be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the available indications without any semblance of doubt point to the culpability of the petitioners. At any rate, this is not a fit case where anticipatory bail can be granted to the petitioners, submits the learned Public Prosecutor.

4. I have considered all the relevant inputs. Case diary has been placed before me. F.I.R has been read over to me. Having considered all relevant inputs, I find no merit at the moment and with the available inputs to conclude that it was a case of accident and not an instance of deliberate assault. I am satisfied that there are no features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioners must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer

or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007